

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:

DAVID GORDON WALLACE, JR.,

DEBTOR.

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CASE NO. 15-31594

(CHAPTER 7)

**THIRD SUPPLEMENTAL ORDER GRANTING CHAPTER 7 TRUSTEE'S
MOTION TO COMPEL VIRGINIA ACQUISITIONS, LLC AND BILL EWING
TO PRODUCE DOCUMENTS AND FOR CONTEMPT SANCTIONS
[Related to Dkt. No. 132]**

On November 10, 2015, the Court held a status conference on the *Order Granting Chapter 7 Trustee's Motion to Compel Virginia Acquisitions, LLC and Bill Ewing to Produce Documents and For Contempt Sanction* [Dkt. No. 132] (as supplemented, the "Order") granting the motion [Dkt. No. 125] of Rodney D. Tow (the "Trustee"), Chapter 7 trustee for David Gordon Wallace, Jr. (the "Debtor") to compel Virginia Acquisitions, LLC, a Missouri limited liability company, and Bill Ewing, Jr. to produce the documents requested in the Notice of Rule 2004 Examination of Virginia Acquisitions, LLC [Dkt. 95] ("Request for Production") and a hearing to consider whether additional sanctions for contempt are appropriate; and the Court having heard the testimony of Charles Rubio, counsel to the Trustee, that the Order has not been complied with; and the Court having found that Virginia Acquisitions, LLC and Bill Ewing, Jr., a member of Virginia Acquisitions, LLC, continue to be in contempt of this Court, and finding that Virginia Acquisitions, LLC and Bill Ewing, Jr. are hindering the Trustee from fulfilling his fiduciary duties to the creditors of the Debtor's estate; and finding that a *prima facie* case has been made that the Trustee has an interest in Virginia Acquisitions, LLC; and the Court having the inherent authority as an Article I court and under section 105(a) of the United States

Bankruptcy Code to compel compliance with the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure; and based on the record in this case and for good cause appearing, it is hereby ORDERED THAT:

1. Virginia Acquisitions, LLC and its member, Bill Ewing, Jr. shall immediately produce all documents in each and every category requested in the Request for Production.

2. In order to coerce compliance with the Order, the daily monetary sanctions provided in the Order shall continue to accrue at the rate of three hundred dollars (\$300.00) per calendar day, for each calendar day that Virginia Acquisitions, LLC and its member, Bill Ewing, Jr. have failed to comply with and respond fully to the Request for Production; and Virginia Acquisitions and Bill Ewing, Jr. shall be jointly and severally liable for such monetary sanctions.

3. As further coercive sanctions, Rodney D. Tow is appointed as receiver (in such capacity, the “Receiver”) of Virginia Acquisitions, LLC with full powers of an equity receiver, including, but not limited to, full powers of the funds, assets, collateral, books, records, and other property belonging to, managed by, or in the possession of or control of Virginia Acquisitions, LLC.

4. The Receiver is immediately empowered and authorized to (i) have access to and to collect and take custody, control, possession and charge of all funds, assets, collateral, books, records, and other property belonging to, managed by, or in the possession of or control of Virginia Acquisitions, LLC, (ii) have control of, and to be added as the sole authorized signatory for all accounts of Virginia Acquisitions, LLC, including all accounts at Arvest Bank, (iii) to take such action as is necessary and appropriate to preserve and take control of and to prevent dissipation, concealment or disposition of any assets of Virginia Acquisitions, LLC, (iv) to sell, liquidate, or otherwise monetize Virginia Acquisitions, LLC’s interest in that certain warehouse

located 1301 S Virginia Ave, Joplin MO 64801-4641 (the “Joplin Warehouse”); and (v) to employ a real estate broker and other professionals as is necessary and appropriate to assist the Receiver in selling, liquidating or otherwise disposing of the Joplin Warehouse. For avoidance of doubt, The Glenn Group Real Estate or any other real estate broker or other professional retained or employed by Virginia Acquisitions, LLC shall take instructions from Virginia Acquisitions, LLC exclusively from the Receiver.

5. The Glenn Group Real Estate shall provide the Trustee the contact information for Bill Ewing, Jr. and any other agent or representative of Bill Ewing, Jr. and/or Virginia Acquisitions, LLC that it has.

6. As further coercive sanctions, Virginia Acquisitions, LLC and Bill Ewing, Jr. shall be jointly and severally liable for the fees and costs incurred by the Trustee in conducting additional discovery in connection with Virginia Acquisitions, LLC.

7. The Court reserves the right to issue a bench warrant to take Bill Ewing, Jr. into custody for his contempt of this Court.

8. The Court shall retain jurisdiction to enforce this Order.

SIGNED this ____ day of _____, 2015.

Jeff Bohm
U.S. Bankruptcy Judge